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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,568	03/19/2004	Wayne J. Krause	5I01.1-012	7089
23506	7590	01/26/2006	EXAMINER	
GARDNER GROFF SANTOS & GREENWALD, P.C.			HUYNH, KHOA D	
2018 POWERS FERRY ROAD			ART UNIT	
SUITE 800			PAPER NUMBER	
ATLANTA, GA 30339			3751	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/804,568	Applicant(s) KRAUSE, WAYNE J.	
	Examiner Khoah D. Huynh	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-22 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-11 is/are rejected.
- 7) ☒ Claim(s) 12-19 is/are objected to.
- 8) ☐ Claim(s) 20-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 19 March 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 8, 10 and 11, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by De Puy (2607926).

Regarding claims 1 and 3, the De Puy reference discloses a foldable commode. The commode includes a frame assembly (Fig. 5) having four brace members (4, 6, 9, 11) and four hinge brackets (Fig. 8) interconnecting the brace members. Each of the hinge brackets permits pivotal movement about a generally vertical axis of one of the brace members relative to an adjacent one of the brace members for laterally collapsing the frame assembly for a use position with adjacent ones of the brace members generally perpendicularly oriented (Fig. 5) to a collapsed position with adjacent ones of the brace members generally parallel oriented (Fig. 8). The commode also includes a seat assembly (17) removably coupled to the frame assembly.

Regarding claim 2, as schematically shown in Figures 5 and 8, the frame assembly is adapted for assembling without the need for tools or hardware.

Regarding claim 5, the seat assembly (17) also includes first and second channels (the dotted lines as shown Fig. 2) for removably receiving the frame

members for the mounting the seat assembly to the frame assembly without the need for tools or hardware.

Regarding claims 10 and 11, the brace members including a front member (4), a rear member (6), a left side member (9, 11) and the right side member (9, 11). In the use position, the front and rear brace members and their planes are oppositely positioned and the left and right members and their planes are oppositely positioned.

Regarding claim 8, the method as claimed would be inherent during the normal use and operation of the De Puy device.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 and 9, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over De Puy (as discussed supra) in view of Carson et al. (4550455).

Regarding claim 4, the De Puy reference also discloses that the seat assembly further includes a toilet seat (at 17) having integrally formed coupling (at 19,25,26) for removable attachment to the framed members (Fig. 1) and pail receiving rail (at 27). The De Puy reference DIFFERS in that it does not specifically disclose a pail having a removable bottom as claimed. Attention,

however, is directed to the Carson et al. reference which discloses a portable commode (Fig. 3) having a pail (Fig. 4) with a servable or removable connection zone (about 106). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the De Puy reference by employing pail having a removable bottom, in view of the teaching of Carson et al., in order to conveniently dump the received waste after use.

Regarding claim 9, the method as claimed would be inherent during the normal use and operation of the modified De Puy device.

Allowable Subject Matter

5. Claims 12-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 20-22 are allowed over the prior art of record.

Response to Amendment

7. Applicant's amendment, filed on 11/8/05, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

Response to Arguments

8. Applicant's arguments with respect to claims 1-5, 8 and 9 have been considered but are moot in view of the new grounds of rejection as discussed supra.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

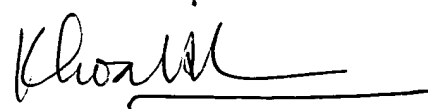
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Khoa D. Huynh', with a horizontal line extending from the end of the signature.

Khoa D. Huynh
Primary Examiner
Art Unit 3751

HK
01/23/2006